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New York

President:	Mr. van Walsum	(Netherlands)
Members:	Argentina	Mrs. Martínez Ríos
	Bahrain	Mr. Buallay
	Brazil	Mr. Fonseca
	Canada	Mr. Fowler
	China	Mr. Chen Xu
	France	Mr. Dejammet
	Gabon	Mr. Essonghé
	Gambia	Mr. Jagne
	Malaysia	Mr. Hasmy
	Namibia	Mr. Andjaba
	Russian Federation	Mr. Lavrov
	Slovenia	Mr. Türk
	United Kingdom of Great Britain and Northern Ireland	Sir Jeremy Greenstock
	United States of America	Mr. Holbrooke

Agenda

Protection of civilians in armed conflict

Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict (S/1999/957)

99-85805 (E)

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The meeting was suspended at 2.05 p.m. on 16 September 1999 and resumed at 10.25 a.m. on 17 September 1999.

The President: I should like to inform the Council that I have received a letter from the representative of Pakistan in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Haque (Pakistan) took the seat reserved for him at the side of the Council Chamber.

The President: The next speaker inscribed on my list is the representative of South Africa. I invite him to take a seat at the Council table and to make his statement.

Mr. Kumalo (South Africa): Thank you very much, Mr. President, for holding this meeting. We were here to testify not too long ago. This is becoming very nice, and I am getting used to it.

After listening to what was said yesterday at yet another important meeting of the Security Council, one is hard-pressed to recall that 50 years have passed since the Geneva Conventions, especially the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, were adopted. It would have been far preferable to participate in a meeting that was called to celebrate the laudable ideas and intentions that the framers of those Conventions cherished way back in 1949. The sad reality, however, is that the international community has always fallen short of living up to the standards set for all nations in times of conflict.

It is perhaps with some cruel irony that I recall that, since February 1999, when the Security Council requested the Secretary-General to present this report, the world has watched with fear, fury and foreboding the effects of tragedy on civilians caught in more than 30 conflicts around the world. These include the conflicts in Kosovo and East Timor, which we feel as if we have witnessed with our own eyes because television broadcast them in living colour right into our living rooms.

Although many people did not know, or may even have chosen not to know, where Kosovo or East Timor were located on the world map, television and newspapers forced us to watch and read about the anguish of the civilian victims in these places, albeit with utter helplessness. Of course, it is and has always been different when it comes to atrocities that continue to be perpetrated on civilians in Africa. Places such as Angola, Sierra Leone and the Congos seldom get mentioned in the national newscasts. The television cameras have long left African conflict areas. Even the few objective and brave reporters have closed their notebooks and long since stopped writing. The so-called media that is left are hacks who are nothing but peddlers of hate and propaganda aimed at whipping up the fury of angry mobs who resort to nationalistic and ethnocentric bloody campaigns against innocent civilians.

In the end, the killings that are taking place in Africa are carried out by those who erroneously believe that they have been left to do as they please because the world no longer cares about those who die in Africa. But the Secretary-General's report before the Council proves otherwise. In the introduction, the Secretary-General writes that

> "hardly a day goes by where we are not presented with evidence of the intimidation, brutalization, torture and killing of helpless civilians in situations of armed conflict". (*S/1999/957, para. 2*)

It is for this and other reasons that my delegation wished to commend the Secretary-General for his comprehensive and challenging report to the Security Council on the protection of civilians in armed conflict.

At the Twelfth Conference of the Non-Aligned Movement (NAM) held in Durban, South Africa, last September, the heads of State or Government urged members of the international community present to reaffirm their determination and commitment to preserve the fundamental values centred on respect for human beings, as entrenched in the relevant international instruments. Convinced that the observance and application of international humanitarian law address the erosion of the underlying respect for human beings and could lead to a reduction in the numbers of victims in conflicts, the heads of State or Government at the Non-Aligned Movement Conference urged all members of the international community to adhere to, promote, disseminate and assist in the adherence to and promotion and dissemination of international humanitarian law and

human rights conventions. They believed that knowledge of, respect for and observance of the international instruments would help relieve the suffering of all victims, provide them with effective protection and create an atmosphere conducive to dialogue and the restoration of peace.

Moreover, the heads of State or Government of NAM underlined the importance of promoting respect for universally recognized humanitarian principles and for international humanitarian law, particularly those of the four Geneva Conventions of 1949 and their 1977 Protocols Additional. They invited those States which have not yet done so to ratify or accede to the two Protocols Additional to the Geneva Conventions of 1949. Common article I of the Geneva Conventions, now ratified by 188 States, which dictates that the High Contracting Parties to the Conventions "undertake to respect and ensure respect for the present Convention in all circumstances", constitutes the collective responsibility of the United Nations.

In his report, the Secretary-General also makes the point that respect for the international humanitarian and human rights laws is essential for the protection of civilians in armed conflicts. He states that such an international framework created by these Conventions would serve a function that is both preventive and remedial. It is preventive because it constitutes a declaration of intent by Member States that have acceded to the Conventions, and it is remedial because it provides punitive measures against the transgressors. My delegation welcomes the adoption of the Statute of the International Criminal Court (ICC) and hopes that the establishment of the ICC will constitute a major step towards providing punitive sanction measures against transgressors, while serving as a deterrent to potential and future transgressors.

It is important that the Security Council put extra emphasis on the strengthening of conflict prevention measures in order to effectively avert the threat to civilians in armed conflicts. These preventive measures include the setting up of early warning systems which will alert the Security Council to pending conflicts while there is still time to do something about them. South Africa is already making a direct contribution in this area. My Government has, amongst other things, given moral and financial support to the United Nations Integrated Regional Information Network which functions as an early warning mechanism in central and southern Africa.

An issue of critical importance to my Government is the securing of humanitarian assistance, access to persons in need and the speedy delivery of basic supplies by humanitarian workers. In this connection, the safety and security of international workers are another crucial element. It is of utmost importance that the safety of United Nations personnel and the safe passage of relief supplies for the populations caught in armed conflict be guaranteed.

In Africa, especially in my region of southern Africa, the scourge of landmines continues to maim and kill innocent civilians. The Security Council should consider including demining in the mandates of peacekeeping missions. The expedited accession by Member States to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction and the rapid implementation of its provisions will go a long way towards protecting civilians against these silent killers. The illicit trafficking in powerful, yet small weapons that are easy to conceal continues to be a growing problem. The lucrative trade in and the easy transportation of such weapons makes them easily and readily transferred and used in different conflicts in a short period of time.

South Africa believes that future peacekeeping operations should include, where appropriate, the collection, disposal and destruction of weapons, including small arms. Otherwise, a demobilized and still armed former combatant remains a threat to civilians.

Over the past year, we have devoted considerable time and energy to resolving conflicts in Africa. We have joined with other Governments in the region in a concerted effort to address humanitarian tragedies resulting from conflict situations. Aside from diplomatic interaction, our commitment has taken the form of financial and material contributions to international humanitarian organizations active on our continent. We have been particularly concerned about the scourge of landmines and the plight of refugees and internally displaced people, especially women and children.

Allow me to conclude by mentioning two issues that continue to be of concern to the Security Council. One issue is the plight of internally displaced persons, who are simply civilians in armed conflict by another name. Many of them are children and women who are often sexually abused and/or starved to death as they try to flee from one conflict area to another, seeking food and shelter for themselves and their babies. The other issue is that children caught up in these situations are forced to become child soldiers long before they even reach

puberty. If, through some hard negotiation, peace is restored in these places, the child soldiers of yesterday are somehow expected to transform themselves into the students of tomorrow.

At the 1990 Organization of African Unity conference on refugees, returnees and internally displaced persons, held at Khartoum, an appeal was made to the international community to alleviate the heavy burden on countries hosting refugees and countries with significant communities of returnees and internally displaced persons. The Khartoum Declaration encourages the development of capacity-building initiatives for member States, and regional and subregional institutions. An appeal was also made to the Office of the United Nations High Commissioner for Refugees and to the International Committee of the Red Cross to expand their training programmes in international and regional refugee and humanitarian law.

My delegation knows that the answers to these and other international questions before the Security Council are hard to come by. Nonetheless, it is the hope of my delegation that the Council will find that the report of the Secretary-General is an important beginning in compiling information about options the international community may choose to consider. It is for this reason that we urge the Council to support the draft resolution on the protection of civilians in armed conflict. We welcome the decision to establish a mechanism to review the Secretary-General's recommendations and to consider appropriate steps by April 2000.

I wish to end by paraphrasing an old saying: the international community is better for knowing where it comes from on the issues of civilians caught in armed conflict, because that is the only way we will all know where we wish to go.

The President: The next speaker inscribed on my list is the representative of Japan. I invite him to take a seat at the Council table and to make his statement.

Mr. Yamazaki (Japan): As recent examples in Kosovo and East Timor have shown, the issue of the protection of civilians in armed conflict is extremely important, not only for humanitarian reasons per se, but also because it has a major bearing on how to reach conflict resolution and how to realize sustainable peace and reconciliation.

First of all, Japan would like to join others in urging that all harm to civilians in armed conflict should stop now. In this connection, Japan joins others in commending the present and former Presidents of this Council for taking the initiative in putting this subject on the agenda this year. We also appreciate the report that the Secretary-General submitted in response to the Council's request for specific recommendations on measures it should take to legally and physically protect civilians in armed conflict.

Let me remind the Council that Japan has actively participated in a number of international initiatives for the protection of civilians in armed conflict and is determined to continue playing its part in the endeavours of the international community to meet this challenge. For example, Japan is a party to all of the six major human rights instruments and strongly adheres to the underlying spirit of those instruments. We have been playing an active part in collaborative efforts to restrict the use of small arms and to establish the International Criminal Court.

As for the protection of humanitarian personnel, Japan was the second party to ratify the Convention on the Safety of United Nations and Associated Personnel which came into force in January of this year, and has extended funding to the trust fund for security training, which supports security and stress-management training for field security officers. In this connection, I am happy to note that the first training project funded by Japan, a workshop in Nairobi, will take place in November.

At the same time, ways should be explored to further strengthen the protection of those who take part in humanitarian activities, with due consideration to the specific situation of the conflict.

The report of the Secretary-General contains several concrete recommendations as to how the United Nations and this Council might be more effective in protecting civilians in armed conflict, and it deserves due attention. My remarks today are of a preliminary nature, owing to the need for more time to study the recommendations in depth.

First, the recommendation to facilitate the rapid deployment of a greater number of civilian police, administration experts and humanitarian personnel is worth further study in enhancing United Nations presence in protecting civilians in a conflict situation.

Secondly, as regards sanctions, Japan strongly believes that innocent civilians should not be punished. Rather, sanctions should be imposed in such a manner that they will attain their specific objectives as effectively as possible. Although careful consideration should be required before establishing any permanent review mechanism, the development of standards and rules for minimizing any detrimental humanitarian impact should be explored.

Thirdly, Japan fully supports the recommendation that arms embargoes should be imposed in situations where civilians are targeted by parties to the conflict, and I should like to take this opportunity to echo that message to arms-exporting States.

Fourthly, the notion of preventive peacekeeping operations offers wide-ranging possibilities. Throughout the previous decades, we, Member countries, have assembled our wisdom to foster and evolve peacekeeping operations by applying the spirit of the United Nations Charter in such a way as to cope with reality. As circumstances in the region and the nature of the conflict itself vary, the modality and timing of deploying an international presence of a preventive nature should be flexible. In this connection, I draw attention to a comment made by Mr. Olara Otunnu at a previous meeting of the Council. He said that violations of humanitarian norms can be discouraged by making them known to the rest of the world; in this vein, a preventive monitoring presence, when feasible, would be desirable.

Fifthly, it is important to disarm armed elements in refugee and internally displaced person camps. However, it is not easy to accurately assess the degree of armed elements in these camps, or to judge whether a host Government has the ability to fulfil the responsibility of disarming them. The recommendation to deploy international military observers to monitor the situation in these camps warrants consultation with the Office of the United Nations High Commissioner for Refugees (UNHCR), as suggested in the report.

Needless to say, a major difficulty in putting into practice most of the above recommendations seems to lie in the fact that non-State belligerent actors tend neither to be in a position to obey international law nor to be susceptible to international pressure. This is an aspect that imposes a major constraint upon this whole issue of protecting civilians in armed conflict, and it deserves our full attention.

Today's agenda item is relevant to all stages of a conflict. Japan firmly believes that durable peace can and must be attained, however difficult the task. As we have seen in cases such as Bosnia, an international presence can gradually move peace forward from a fragile to a more stable level. Let me cite two recent examples of Japan's involvement in the cause of peace. The first is the pledge of $220 million for humanitarian and reconstruction assistance for Kosovo and neighbouring countries; and the second is a pledge announced yesterday in Tokyo for a preliminary $2 million to meet immediate humanitarian needs for East Timor, to be followed by further assistance in response to any future appeal, as well as substantial financial contributions to the United Nations trust fund to support the multinational force established by the Security Council resolution.

We are of the view that in the follow-up process of this report by the Secretary-General, non-members of the Council should also be involved, given the scope and depth of the issue. We are willing to play a constructive part in any follow-up that may take place to cope with this important issue.

The President: In accordance with the decision taken earlier in the meeting, I invite the Permanent Observer for Switzerland to take a seat at the Council table and make his statement.

Mr. Staehelin (Switzerland) *(spoke in French)*: I would like to thank you, Mr. President, and the other members of the Security Council, for giving me this opportunity to address the issue of the protection of civilians affected by armed conflict.

Since the debate held on this question in the Security Council last February, new crises and further attacks on the lives and rights of civilian populations have reminded us of the urgency and gravity of the subject under consideration. The fine report of the Secretary-General before the Council emphasizes the magnitude of the challenge confronting the international community. It recommends precise and practical measures to counter the threats and to put an end to the violence and abuses against civilians in times of armed conflict. Those recommendations deserve our support.

Practically no major event can take place anywhere today without societies and States being witness to it, including, in this case, violence against civilians in armed conflict. Civil societies and Governments become involved in such situations through remarkable and

necessary actions of solidarity, or they intervene decisively. Nevertheless, on other occasions such events take place as if a culture of indifference to human suffering had become the norm in international relations and as if the ideals that are the foundation of the cooperation symbolized by the United Nations had been lost. It is therefore necessary to examine the mechanisms that help to make public opinion, parliaments and Governments decide what is intolerable and what is not. It is also urgent for us to consider the relationship between mass media and political decision-making. In fact, the United Nations and States must pay attention when solemn declarations and recognized principles on respect for humanitarian law do not succeed in arousing action exactly at the time when such action is needed. The credibility of our commitment is at stake.

The recommendations contained in the report of the Secretary-General prompt me to make the following comments. First, my delegation supports the Secretary-General's appeal to all States to ratify the major instruments of international humanitarian law. States involved in conflicts of which the Security Council is seized are not all parties to the Geneva Conventions. Many States have not yet ratified the Protocols Additional to the Conventions. Too many States Parties violate their duty to respect and enforce the provisions of the Conventions as they are committed to do under common article 1 of all the Conventions. We must emphasize the need for all warring parties to respect the emblems and premises of the Red Cross and the Red Crescent, which have recently been subjected to intolerable attacks.

Switzerland invites States to recognize the competence of the humanitarian International Fact-Finding Commission by making the declaration contained in article 90 of Protocol Additional I to the Geneva Conventions.

We are in favour of continued consideration of how to bring about better respect for humanitarian law. Switzerland will be co-chairing a workshop on this subject within the framework of the twenty-seventh International Conference of the Red Cross and Red Crescent, which will be held in Geneva from 31 October to 6 November 1999. As depositary of the Conventions, we hope that this Conference will help the international community to further mobilize to promote compliance with international humanitarian law and that the appeal signed last 12 August on the occasion of the fiftieth anniversary of the Conventions will be heeded and furthered through concrete actions.

Lastly, Switzerland wishes to welcome the entry into force on the very day of that appeal of the Secretary-General's bulletin on respect for international humanitarian law by United Nations forces.

Given the nature of current conflicts, in which attacks on civilian populations are often committed by non-State armed groups, it is important to promote respect for humanitarian law by those non-State entities, and to confirm the fundamental nature of the rules enshrined in common article 3 of the Geneva Conventions. Let us repeat here that non-compliance with the provisions that protect vulnerable groups can often be ascribed to all the parties to a conflict, whether they are States or not. The Security Council must take this into account and act accordingly.

The suppression of acts of violence that deliberately target civilian populations must be effective and vigourous in order to avoid the establishment of a culture of impunity. My country supports the work of the International Criminal Tribunals for the former Yugoslavia and for Rwanda and is in favour of the rapid entry into force of the International Criminal Court. Switzerland is also among the States to have adopted legislation to allow it to cooperate closely with the two ad hoc Tribunals. Swiss military law officials have been involved in bringing to trial nationals of Rwanda and the former Yugoslavia accused of having participated in crimes committed during the conflicts that recently affected their countries.

With respect to the maintenance of peace, the comprehensive and integrated approach to crisis solving advocated by the Secretary-General is a necessity. Switzerland is convinced of the crucial nature of a concerted commitment on the part of all actors to assure the protection of civilians during and after conflicts. We favour strengthening the Organization's capacities in the area of rapid deployment and planning, as regards both civilian and police elements. Consideration of this subject is also under way in other organizations such as the Organization for Security and Cooperation in Europe. It would be useful for the various initiatives to be complementary and consistent.

My delegation supports the many proposals made in the report in the areas of light weapons, arms embargoes and anti-mine activities. Our priority task for in the next few years is to give concrete shape to the commitments that have been undertaken and to make a reality of established principles and norms. It is only in this way

that our action will lead to more effective protection for civilians in armed conflicts. In the area of light weapons, my delegation believes it is urgent to establish closer control over their transfer and their presence in society. This should be done by preventive and by regulatory actions. The marking of weapons, measures to control trade, the development of codes of conduct and arms-reduction measures must be on the agenda in this field. Switzerland hopes that a forceful plan of action can be developed and adopted in the context of the conference being planned for 2001. My country has offered to host this conference in Geneva.

The protection of children affected by armed conflicts was the subject of a recent Council debate. My delegation participated in that debate, and therefore I will confine myself to repeating here that my country is convinced of the importance of raising to 18 years the minimum age for recruitment — be it voluntary or mandatory, by regular armed forces or armed opposition groups — and for direct or indirect participation in armed conflicts.

Finally, my delegation supports the Secretary-General's recommendations regarding sanctions. For some time now my country has been supporting efforts for a maximum reduction of the humanitarian impact of sanctions and to introduce appropriate mechanisms for humanitarian exemptions. In the framework of the Interlaken "smart sanctions" process, the Swiss Government has also facilitated reflection on the subject of targeted financial sanctions.

Taken individually, each of the recommendations of the Secretary-General represents progress in efforts to ensure the protection of civilian populations in armed conflicts. These days, however, attacks on the rights of these populations represent such a grave problem that only systematic implementation of these measures can lead to real breakthrough in the fight against these violations. Even in the case of such a coordinated implementation, intense efforts will remain indispensable. The outcome is uncertain, but the fight must be waged.

The President: The next speaker is the representative of Finland. I invite her to take a seat at the Council table and to make her statement.

Ms. Korpi (Finland): I have the honour to speak on behalf of the European Union. The Central and Eastern European countries associated with the European Union — Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia — and the associated countries Cyprus and Malta, as well as the European Free Trade Association countries members of the European Economic Area — Iceland and Liechtenstein — align themselves with this statement.

The European Union wishes to thank the Secretary-General for his thoughtful report on the ways in which the Security Council, acting within its sphere of responsibility, can improve the physical and legal protection of civilians in armed conflict. Its action-oriented recommendations can contribute to reinvigorating international efforts to protect civilians in armed conflict. The Security Council has a special responsibility in this context. Large-scale human suffering, as was noted in a statement by the President of the Security Council issued this past February, is a consequence of and sometimes a contributing factor to instability and further conflict. Massive and systematic breaches of human rights and international humanitarian law can constitute threats to international peace and security, and therefore demand the attention and action of the Security Council. The European Union welcomes the Security Council's concern regarding threats to human security, as demonstrated by a series of resolutions it has adopted in recent years — including those that established international ad hoc criminal tribunals for the former Yugoslavia and for Rwanda. We have seen in recent days how much the world looks to the Security Council for action.

The question of the protection of civilians in armed conflict deserves to figure higher on the international political agenda. Looking at the present global situation one can only feel a profound concern about the widening gap between existing international norms and respect for them. In today's conflicts the important distinctions between combatants and civilians have often become blurred, and the safety of humanitarian workers is not respected. Women, children, the elderly, the sick, refugees and internally displaced persons suffer greatly and have been specifically targeted and used as shields. In some cases aggressors have used ethnic cleansing and forced population movements — often across international borders — not only as a weapon, but also as a strategic objective. International humanitarian law, human rights law and refugee law are often unknown to parties to conflicts, or they are ignored or wilfully disrespected. The European Union deplores the persistent violations of international humanitarian law.

The recommendations proposed by the Secretary-General to address the failure to comply on the one hand,

and the lack of effective enforcement measures on the other, head in the right direction. Our objective should be to ensure respect for and full implementation of international human rights and humanitarian law. The primary responsibility to ensure application and enforcement of these fundamental norms rests with States. However, the Security Council can in various ways draw the attention of States to the importance of ratifying the major instruments, ensuring their implementation in practice and heightening awareness and acceptance of humanitarian law among all sectors of society. In this respect, the European Union welcomes innovative approaches to strengthening the respect for international humanitarian law by developing codes of conduct, ground rules and clear principles of engagement, as well as by building on relevant legal norms. The measures proposed by the Secretary-General include promoting adherence to international law as well as, in certain well thought-out cases, enforcement measures under Chapter VII of the Charter.

Irregular forces are increasingly a feature of today's conflicts and often bear significant responsibility for disrespect, grave breaches and serious violations of international humanitarian law as well as for serious human rights violations. We therefore call upon non-State actors that are parties to conflicts to strictly observe and respect international humanitarian and human rights law.

It is also essential that violations of the international instruments pertaining to protection of civilians are addressed through appropriate judicial processes, either nationally or through the efforts of the international community. The International Criminal Tribunals for the former Yugoslavia and for Rwanda were important steps in establishing individual accountability for atrocities. The European Union is of the view that the Security Council should consider all measures to induce compliance with orders and requests of the two ad hoc tribunals. The European Union would also like to stress the importance of the early establishment of the International Criminal Court and its important future role both in deterring grave breaches and serious violations of international humanitarian law and serious human rights violations, and in ensuring that those responsible for atrocities are brought to justice. In this context it is to be noted that the Rome Statute of the International Criminal Court also foresees a major role for the Security Council in referring situations to the Court where they involve most serious crimes of concern to the international community and are deemed to constitute threats to international peace and security.

It is increasingly difficult for the international community to provide protection and assistance to those living in the midst of a conflict. Denial of access to civilians in need of humanitarian assistance has in many instances become a tool of warfare. Humanitarian and peacekeeping personnel are deliberately targeted, since they are seen by many armed groups as a threat to their objectives. In this context, the European Union wishes to stress that under the Statute of the International Criminal Court, attacks against humanitarian or peacekeeping personnel are war crimes. The proposal to extend the scope of the 1994 Convention on the Safety of United Nations and Associated Personnel to cover other categories of United Nations and associated personnel, including locally recruited staff, merits serious consideration.

The report rightly highlights the plight of internally displaced persons in many parts of the world. The European Union agrees with the report's emphasis on the work of the United Nations system to assist internally displaced persons, while noting that the primary responsibility for the protection of and assistance to internally displaced persons lies with the Government and the country concerned. The European Union supports the wider use of the Guiding Principles on Internal Displacement in the work of the United Nations at the country level.

The European Union supports the Secretary-General's continuing efforts to place increased emphasis on the prevention of conflicts. The promotion of economic and social development, establishment and consolidation of democracy, good governance and the rule of law as well as the full implementation of human rights are of great importance in conflict prevention.

With regard to confidence-building, effective public information is vital. The United Nations must enhance its public information capability at mission level. In this respect, it is also crucially important to prevent the media from being used as a tool of conflict. Serious consideration should be given to the Secretary-General's recommendation relating to hate media.

Better use should be made of existing mechanisms, such as the International Fact-Finding Commission under article 90 of the first Protocol Additional to the 1949 Geneva Conventions. The services of this existing body can be called upon whenever violations of international humanitarian law occur in armed conflict. It can conduct enquiries into the alleged breaches of the Geneva

Conventions or their Protocol I and facilitate, through its good offices, the restoration of an attitude of respect for international humanitarian law.

Peacekeeping itself has to be seen as part of a continuum, stretching from prevention to conflict resolution and peace-building. In the area of conflict prevention, the European Union fully agrees with the recommendation to consider wider use of preventive peacekeeping operations or other preventive monitoring presence. The United Nations Preventive Deployment Force in The former Yugoslav Republic of Macedonia was the first ever United Nations preventive deployment mission. It serves as a positive and encouraging experience from which many lessons can be drawn for the future.

The European Union strongly agrees with the recommendation to strengthen the Organization's capacity to plan and deploy rapidly. Quick action may often limit or even prevent conflict and breaches of human rights and international humanitarian law. In this respect, the European Union welcomes the steps taken to establish a rapidly deployable mission headquarters within the Department of Peacekeeping Operations and looks forward to its early and full operation. The European Union stresses the importance of providing adequate resources to that headquarters. Deployment of international military or civilian police observers to monitor the situation in camps for refugees or internally displaced persons is also a measure that must be seriously considered.

The European Union agrees with the recommendation to make greater use of targeted sanctions so as to improve the effectiveness of sanctions while minimizing their humanitarian impact. Targeted sanctions, aimed at specific individuals and entities of the targeted country, have already been adopted by the Security Council on certain occasions. We also agree that the proposals made by the President of the Council to the sanctions Committees in January 1999 form a good basis for further efforts to develop standards and rules aimed at minimizing the humanitarian impact of sanctions.

The protection of civilians is fundamental to the purposes and principles of the United Nations. The international community must not stand by, helpless, in the face of humanitarian catastrophes. The tragic events taking place in East Timor before the eyes of the world are the most recent unfortunate example of why the United Nations must act. We all have fresh in our minds the violent attacks unleashed on the civilian population of East Timor following the popular consultation of 30 August this year, with the complicity of elements of the Indonesian armed forces and police. In the case of East Timor, the Security Council has demonstrated its capacity to react swiftly, effectively and in line with the recommendations of the Secretary-General. In this light, the European Union welcomes the adoption of resolution 1264 (1999) authorizing a multinational force to assist in restoring law and order in East Timor.

The Security Council has a special responsibility and special powers to authorize coercive action when international peace and security are threatened as a result of systematic and widespread violations of international humanitarian law and human rights law, ranging from the imposition of arms embargoes or sanctions to intervention — when all other measures prove ineffective — to protect the civilian population from immediate threats to their lives and to ensure the safe passage of humanitarian convoys. The European Union believes that the factors presented by the Secretary-General to be considered in extreme cases when contemplating an intervention are relevant in that context and may help the Security Council to further develop an active policy aimed at preventing or alleviating profound human suffering wherever it occurs.

In conclusion, the European Union would like to express its appreciation for the present report, which is very action-oriented and provides a good basis for further active engagement by the Security Council to ensure improved protection of civilians in armed conflict.

The President: The next speaker inscribed on my list is the representative of Mongolia. I invite him to take a seat at the Council table and to make his statement.

Mr. Enkhsaikhan (Mongolia): It is a great honour for me to have the opportunity to participate in an open debate in the Council on the question of the protection of civilians in armed conflict. At the outset, I would like to express my delegation's appreciation to you, Mr. President, for pursuing the timely initiative to hold another open debate in the Council on this important issue with the participation of United Nations Member States and to have the Council adopt a bold resolution.

My delegation's thanks and appreciation also go to the Secretary-General for his report to the Council prepared in response to the Council's previous open debate held on this item last February and to the alarming general situation to which, yesterday in the debate, the United Nations High Commissioner for Human Rights

once again drew the attention of the Council and, indeed, the international community. My delegation shares the general assessment of the situation and supports the recommendations contained in the Secretary-General's report on how the Council and Member States should act in order to improve the protection of civilians in situations of armed conflict, in which innocent civilian populations, in particular women and children, suffer in great numbers.

This century has been the bloodiest one that humankind has ever known. The next century should be different. We all know the appalling statistics of human suffering as a direct result of armed conflict, or indirectly, as a consequence of violence against innocent civilians, refugees or displaced persons. Today more than 90 per cent of armed conflicts take place within, rather than among, States. That means that in most cases it is the civilian population that is targeted. As a result, the world is witnessing various kinds of violence, including intimidation, brutalization, torture, killing, mutilation, genocide, "ethnic cleansing" — all used against helpless civilians in different parts of the world. Therefore, it is my delegation's strong belief that the subject of today's debate is crucially important and that the Council should search for more efficient and comprehensive ways to address this issue. It would be accurate to say that the question of the physical, moral, economic and other terrible sufferings of civilians in situations of armed conflict arises in almost every meeting of this Council and in other important United Nations meetings on the issue of international peace and security. This fact alone testifies to the serious and critical nature of the issue.

In this context, my delegation would like to note with satisfaction that the Council, which bears primary responsibility for the maintenance of international peace and security, has always paid attention to the question of the protection of civilians in armed conflict. However, the question has always been addressed in the context of a particular emergency situation or a particular case. Addressing this question specifically should result in an action-oriented resolution or decision of the Council addressed to the entire membership of the United Nations, the United Nations family and civil society.

No conflict or crisis is the same. Therefore, we believe that a serious and constructive approach towards emergency situations could be workable and thus productive. The international community has a fresh example of such a constructive yet firm approach in the case of East Timor.

In this regard, my delegation duly appreciates the steps taken by the Council in addressing the emergency situation in East Timor by sending its mission to Jakarta and Dili, holding an open debate in the Council and adopting, three days ago, resolution 1264 (1999), authorizing, as a priority measure, the establishment of a multinational force to restore peace and security in East Timor, to protect and support the United Nations Mission in East Timor (UNAMET) and to facilitate humanitarian assistance operations there. My delegation fully supports the Council's action aimed at halting and reversing, as soon as possible, the unfolding humanitarian catastrophe in East Timor. My delegation welcomes such a style of work and expresses the hope that it will be, where appropriate, pursued by the Council in the future.

In the meantime, we welcome the cooperative approach displayed by the Government of Indonesia towards the establishment of a multinational force, as was suggested by the Secretary-General and supported by the majority of the international community, to restore peace and security, protect the people, and honour and implement the results of the popular consultation as painlessly as possible. We express the hope that the multinational force will be established and dispatched as soon as possible.

Allow me, in this light, to express my delegation's strong belief that international involvement in this case will be in the interest not only of the Indonesian and East Timorese peoples, but also in the interest of stability, peace and security in the region.

The reason I mention here the case of East Timor is not because that it is the most recent one, but because such a swift international reaction to unfolding tragedy represents the kind of response by the Council that is expected of it in such emergency situations.

I should like, therefore, to repeat my delegation's belief that the most efficient means of protecting civilians would be to prevent conflict situations and tackle their root causes, as they result in untold suffering for such vulnerable segments of the population as children, women, the elderly and so on. This is the central theme of the introduction of this year's report of the Secretary-General on the work of the Organization. Many instructive and constructive ideas are reflected in this report that the Council may find useful when preparing the draft resolution on this issue.

On the other hand, the international community must be concerned with the disrespect for, and even violations of, international humanitarian and human rights principles and norms in many, if not most, of the affected areas. This was rightly pointed out in the Secretary-General's report as the gap between law and reality. Therefore it is my delegation's belief that the international community should do more to strengthen international legal enforcement mechanisms, under which the parties to the relevant international Conventions on international humanitarian and human rights law would strictly comply with their obligations. In this connection, we believe that the speediest creation of an International Criminal Court, as a global legal mechanism to address impunity and serve justice, would be instrumental in punishing the perpetrators of such grave crimes as well as in serving to deter the commission of such crimes in future.

Though the Preparatory Committee for the establishment of the International Criminal Court has made some progress in drafting the rules of procedure and evidence, and the elements of crime, for application by the Court in future, much more remains to be done if the deadline of 30 June 2000 set by the Rome Conference is to be met. Bearing in mind this year's tragic developments in many parts of the world, my delegation expects the third session of the Preparatory Committee, to be held later this year, to be fruitful in moving the international community closer to establishing an independent, competent and viable Court. In order to achieve that goal, genuine political will by States is crucial.

Many of the previous speakers have referred to another important aspect of human security: the physical protection of persons. Since this issue has been extensively covered in the Secretary-General's report, I would like only to inform the Council that my country, Mongolia, will sign in 10 days, here in New York, a Memorandum of Understanding with the United Nations concerning its contributions to United Nations standby arrangements, whereby it would be contributing staff officers, military observers, doctors and other medical officers. Mongolia will also soon be acceding to the 1994 Convention on the Safety of United Nations and Associated Personnel.

In conclusion, allow me to reiterate once again my delegation's support for the Secretary-General's recommendations to the Council on this item as well as for the United Nations efforts to protect civilians in armed conflict. We hope that, as a result of today's debate, a weighty and viable resolution will be adopted to adequately deal with this important issue. Thus the Council should not only strongly condemn the deliberate targeting of civilians in situations of armed conflict; it should also call upon the international community to take practical measures, such as acting forcefully in situations where civilians are targeted; including in the mandates of peacekeeping, peacemaking and peace-building operations special protection and assistance provisions for groups requiring such protection; making use of targeted sanctions; raising the minimum age for recruitment and participation in hostilities to 18; and so on. The draft resolution that is being discussed among the members of the Council contains concrete measures that need to be taken. We believe, therefore, that these could serve as a good basis for such a resolution.

The President: The next speaker inscribed on my list is the Permanent Observer of Palestine to the United Nations. I invite him to take a seat at the Council table and to make his statement.

Mr. Al-Kidwa (Palestine): Allow me, Sir, to congratulate you on your assumption of the presidency of the Security Council and to express appreciation to your predecessor, Ambassador Andjaba of Namibia.

The protection of civilian persons in armed conflict is a matter of great importance to the international community. We believe that the concerted interest shown recently by the Security Council in this matter is appropriate and necessary and we hope that it will continue until sufficient and serious protection of civilians in armed conflict is ensured in all cases.

In this regard, we appreciate the report on this matter presented by the Secretary-General to the Security Council at the request of the latter. The report makes a useful analysis of the threats and violence against civilians in armed conflict and the role of the Security Council in this regard, and it details recommended measures to strengthen both legal and physical protection. We agree with many of the recommendations made in the report, especially in the field of accountability. The key remains for the Council to take actions to promote a climate of compliance. Ensuring compliance is a condition for achieving credibility and avoiding the emergence of a double standard and the application of different sets of values.

We were perplexed, however, by the fact that the report fails to mention the incessant Israeli occupation of Palestinian land along with the examples it gives on violations of international humanitarian law. The report

even fails to mention the occupied territories and Lebanon among the places where peacekeeping personnel have been harassed or have lost their lives. The Secretary-General's report on Qana is still fresh in our memories.

Today, Palestine refugees number more than 3.5 million people, representing the oldest and biggest refugee problem on the agenda of the international community. Israel refuses to implement General Assembly resolution 194 (III) of 1949 on the Palestine refugees and Security Council resolution 237 (1967) on displaced persons. For the past 32 years, Israel, the occupying Power, has continued to occupy the West Bank, including Jerusalem, and the Gaza Strip. It has continuously committed grave breaches of the Fourth Geneva Convention, Additional Protocol I and the Hague Regulations. It has effectively created a situation of colonization and annexation of parts of the occupied territories, including Jerusalem — a unique case at the end of the twentieth century.

The Security Council has responded by adopting 24 resolutions which reaffirm the applicability of the Fourth Geneva Convention to the territories occupied by Israel since 1967, including Jerusalem. Many of the Council's resolutions called upon Israel, the occupying Power, to comply with the provisions of the Convention and to accept its *de jure* applicability. In several cases, the Council also called for measures to ensure the safety and protection of Palestinian civilians living under Israeli occupation. The Council also called upon the High Contracting Parties to the Convention to ensure respect by Israel for its obligations under the Convention in accordance with common article I. However, Israel, the occupying Power, has not complied with or even accepted any of the aforementioned resolutions.

Over the years, the General Assembly has adopted even stronger positions. In April 1997, the General Assembly held the tenth emergency special session to consider illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian territory. The session reconvened four times, during which it recommended that the High Contracting Parties to the Fourth Geneva Convention convene a conference on measures to enforce the Convention in the occupied Palestinian territory, including Jerusalem, and to ensure its respect in accordance with common article I.

On 15 July 1999, for the first time in the history of the four Conventions, a conference to consider a specific situation was convened in accordance with the recommendations of the tenth emergency special session. We believe that this was an extremely important step, not only with regard to the situation in the occupied Palestinian territory, including Jerusalem, but also with regard to international humanitarian law and the efforts to ensure respect for and compliance with its instruments.

We emphasize our situation, while at the same time we are aware of the many examples strongly requiring serious efforts by the international community to bring an end to the suffering of civilians, especially women and children. It is unfortunate that today, as we celebrate the fiftieth anniversary of the four Geneva Conventions, we cannot also take pride in and celebrate their full respect and applicability. In Palestine and everywhere, we have to make progress to create a different and safer situation than that faced today by civilians in armed conflict. The draft resolution, which we hope the Council will adopt, will be an important move in that direction.

The President: The next speaker inscribed on my list is the representative of Norway. I invite him to take a seat at the Council table and to make his statement.

Mr. Leiro (Norway): We would like to thank you, Sir, for organizing this meeting of the Council on this important topic. Let me also join other speakers in congratulating the Secretary-General on a timely and highly useful report to the Security Council on the protection of civilians in armed conflict, as well as the High Commissioner for Human Rights for her inspiring statement yesterday. We appreciate this opportunity to take part in an open debate on this report.

The issues before us are vital to many people around the world and the realities faced by civilians in armed conflict present major challenges to the international community. As the report clearly states:

> "The protection of civilians in armed conflict would be largely assured if combatants respected the provisions of international humanitarian and human rights law." (*S/1999/957, para. 35*)

These provisions must be complied with by all. We urge Member States to ratify the major instruments of international humanitarian, human rights and refugee law and to take the necessary steps in order to fully implement them. In this context, early entry into force of the Rome Statute of the International Criminal Court is of high importance so as to ensure that the perpetrators are held accountable. Moreover, States are not the only actors in armed conflicts. Rebel groups and opposition

fighters continue to target civilians. A call to respect the norms contained in international humanitarian, human rights and refugee law must therefore also be addressed to them.

Women and children are often the most vulnerable civilians in armed conflict. Not only do they become victims when war leads to the breakdown of the social fabric and the disintegration of families; women and children are also, in some cases, deliberately targeted by combatants for gender-based violence and sexual and other exploitation. Children are recruited, trained and used as so-called efficient soldiers.

The particularly disturbing situation of children in armed conflict was highlighted in the Security Council meeting held on 25 August and in the resolution adopted at that meeting. Arms small and simple enough for children to carry and use are unfortunately highly available on the international market. Their availability contributes to destabilization and makes post-conflict rehabilitation more difficult. The people who enter conflict zones in order to alleviate the suffering of civilians have themselves become targets of violence. The picture painted in the report by the Secretary-General on the situation faced by civilians in armed conflict is complex and ugly, but unfortunately real.

The Security Council has consistently reaffirmed its primary responsibility for the maintenance of international peace and security, and on several occasions has recognized that massive and systematic breaches of international humanitarian and human rights law represent a threat to international peace and security.

The concrete recommendations put before the Security Council in the Secretary-General's report are therefore timely and welcome. They merit close consideration and discussion. Further work is required to ensure proper consideration of the recommendations and of how they can effectively be implemented. Norway therefore urges the Security Council to establish an effective mechanism to ensure that the recommendations of the Secretary-General are acted upon.

The President: The next speaker on my list is the representative of the former Yugoslav Republic of Macedonia. I invite him to take a seat at the Council table and to make his statement.

Mr. Čalovski (The former Yugoslav Republic of Macedonia): Allow me first to express my great satisfaction at seeing my old friend, the representative of the Netherlands, a country with which the Republic of Macedonia enjoys excellent relations, presiding over this session of the Security Council on the protection of civilians in armed conflict. You will, of course, have the full support of my delegation, Sir, in your endeavour to see this debate end successfully and with important results.

The views of my delegation coincide with those expressed by the representative of Finland, who spoke on behalf of the European Union.

The decision of the Security Council to convene an open meeting on the protection of civilians in armed conflict, including the subject of international humanitarian law, should be seen as an important positive development and an important change by the Security Council and by the Organization as a whole, on the implementation of international humanitarian law. This includes the Geneva Conventions of 1949 — whose fiftieth anniversary was recently observed by many organizations, including by the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies, and the International Institute of Humanitarian Law of San Remo — and the concept of human rights in armed conflict, as adopted in 1968 by the International Conference on Human Rights in its Proclamation of Teheran.

That decision means that the Security Council will start to be involved in the protection of civilians in armed conflict as an implementation mechanism of the international community to enforce international humanitarian law and the Geneva Conventions, which until now, as stressed by previous speakers, have often been ignored, unsatisfactorily implemented, seriously violated and abused; their violators have not really been brought to justice. It is also of paramount importance that the permanent members of the Security Council have agreed with this course of action, which means — and this is very important — that they will be guided by Article 24, paragraph 1, of the United Nations Charter.

In the twenty-first century, there will be no important distinction between international and internal armed conflicts. The present distinction will simply disappear, and it would be wise for the international community, primarily the Security Council, to be prepared for this coming situation. The Secretary-General's decision to request the observance of international humanitarian law by United Nations peacekeepers is a good start in this respect. What

happened and what is happening in Kosovo and Metohija, Federal Republic of Yugoslavia, in East Timor and, before that, in Bosnia and Herzegovina, in Rwanda, in Sierra Leone and so on, are good illustrations of the new reality, and, in that regard, of the new obligations of the Security Council.

One of the questions to be asked at present is why the United Nations has not so far been involved in the implementation of the Geneva Conventions of 1949 on international humanitarian law. Why was that important task of the maintenance of international peace and security left to individual States parties to the Conventions, to the ICRC and the International Federation of Red Cross and Red Crescent Societies and other non-governmental organizations? In our view, the answer is known: it was because the implementation of international humanitarian law requires a correct observance of the principles of the sovereignty of States and of non-interference in the internal affairs of other States. Our view, which I think is shared by many delegations, is that the situation has changed since the end of the cold war. The violation of human rights in armed conflicts, the rights of refugees and other human rights can no longer be the subject of selective concern. The violation of human rights is everybody's concern. The same should hold for the duty to observe all human rights — of course, in particular when we are faced with mass violations, such as those in armed conflict.

It is therefore the duty of United Nations Member States and of the main organ of the United Nations, the Security Council, which is responsible for the maintenance of international peace and security, to act fast and effectively. We were pleased to see the Council in action on East Timor recently.

The Security Council should request without delay or hesitation that the Secretary-General prepare the necessary reports in close cooperation with the ICRC, the International Federation of Red Cross and Red Crescent Societies and the Offices of the United Nations High Commissioners for Human Rights and for Refugees for deliberation and action by the Council. The Council should ask for reports and documentation. In that endeavour, the prime concern of the Secretary-General and the Security Council should be the enforcement of the observance of human rights, and the well-being and dignity of civilians in danger, not so much, as I said earlier, a preoccupation with the observance of the principles of the sovereignty of States and of non-interference in internal affairs — which, of course, should not be ignored.

Another question to be dealt with is what the Security Council should do to prevent the spread of the non-observance of international humanitarian law. The best thing would be for the Security Council to take immediate action to freeze or to stop a conflict and undertake measures aimed at finding solutions. The initiative for this could come from the Secretary-General, from competent regional organizations or from Member States. The Security Council should be resolute, inventive and innovative and should act under Article 24, paragraph 2, of the Charter. I would like to stress that the permanent members of the Council should avoid acting under Article 27, paragraph 3, of the Charter. Under Article 24, paragraph 1, the Security Council is requested to act on behalf of Member States. That means that the members of the Security Council should not act on their own behalf. If they are not in a position to act on behalf of Member States, it should be possible for the Secretary-General to request the urgent convening of the General Assembly. That would be a rational and democratic thing to do and would strengthen the role of our Organization altogether and prevent its marginalization. It is impossible to understand or accept that the Security Council cannot act fast and resolutely in the implementation and enforcement of international humanitarian law.

As the Security Council has begun to deal with the implementation of international humanitarian law, it is important to see what should be done with existing international humanitarian law and with refugee law, both of which are regulated by numerous instruments that were adopted long ago, in 1994 and 1951, during different times and for different purposes, but which are nevertheless in force at present. In this regard, we are faced with several problems: the relationship among the three bodies of human rights law; the laws themselves; and their implementation. In our view, the Security Council at present is not really well prepared to handle this situation and it should start preparing.

The competent body for dealing with international humanitarian law is the International Committee of the Red Cross (ICRC); the Office of the United Nations High Commissioner for Refugees, for refugee law; and the High Commissioner for Human Rights, for human rights. The fact is that these bodies of laws are so highly regulated that one needs to be a real expert in order to know them. And that simple situation is a source of serious difficulties in the implementation of these laws in the field. At present, as we all know, there is a huge gap between the laws contained in the instruments and their

implementation in the field. You have a situation in which militaries are engaged in armed conflict, but in which the victims are civilians.

This problem should be addressed. In our view, we have two alternatives. The first one is to strengthen existing international humanitarian and refugee law by adopting new protocols or by adopting amendments to the Geneva Conventions. The second alternative is to start a process of "deregulation" and adopt new instruments — new Geneva Conventions — on international humanitarian law and on refugees. The second alternative, of course, is more difficult but, in my view, more promising.

We believe that the time has come to discuss and agree on a mechanism for enforcement of the implementation of human and refugee rights in armed conflicts. This will probably be discussed at length at the forthcoming International Conference of the Red Cross and Red Crescent that will be held in November in Geneva, as we were informed by the Observer of Switzerland. In the future we will have the International Criminal Court, which will be part of the implementation mechanism. But that will not be enough. The important role of the ICRC and the International Federation of Red Cross and Red Crescent Societies should continue. The action of competent regional organizations such as the North Atlantic Treaty Organization (NATO), the OSCE and the Organization of African Unity (OAU) will continue to be important. But in our view, the time has come to decide that the Security Council should act as a central mechanism for the enforcement — and I emphasize enforcement — of international humanitarian law.

The concern of the international community for the victims of violations of the Geneva Conventions should not be interpreted as support for those who seek to achieve political goals by the use of force. The Council should take into account that the development of international law has left the period of coexistence that began 10 years ago after the end of the cold war and has entered a period of cooperation. The forces of globalization will influence the Security Council to act against the violation of human rights, in particular against violations in armed conflicts. Accountability must prevail and justice must be done.

Speaking generally, it is of particular importance to promote all efforts to deal not only with the consequences but also with the sources of armed conflicts, which, as members know, are not only political, but also social and economic.

The Security Council should abide strictly by the principles of the inviolability of international borders and of the integrity of each Member State. But, as I have stressed, as in the next century there will — I hope — in fact be no international conflicts and most of conflicts will be internal, the only way the Security Council will be able to help civilian victims will be to act to enforce international humanitarian law. The Charter of our Organization demands from the Security Council not only that it help to maintain international peace and security, but also that it contribute to the respect of human dignity.

Let me express my great appreciation for the contribution made by the Secretary-General in his report contained in document S/1999/957 of 8 September 1999.

In conclusion, I would like to say something as a footnote to my statement. In my view, it may perhaps be advisable for the Security Council to organize its open meetings differently, not as they are organized at present. In my view, the Security Council should first listen to what States non-members of the Security Council would like to say on the item on the agenda. After that, members of the Security Council could make their statements. In this way, they would be able first to hear the positions of the broader membership, which is so important at present when we are investing so much energy and time in democratizing our Organization and in making the work of the Security Council more transparent and, of course, more relevant. The absence of so many of the Permanent Representatives of States members of the Security Council prompted me to add this footnote, and I hope it will be understood properly.

The President: I thank the representative of the former Yugoslav Republic of Macedonia for the kind words he addressed to me.

The next speaker is the representative of the Republic of Korea. I invite him to take a seat at the Council table and to make his statement.

Mr. Lee See-young (Republic of Korea): Allow me at the outset to extend my delegation's appreciation to you, Sir, for taking the initiative of organizing this open debate on the very important issue of protecting civilians in armed conflict. We recognize highly the effort of the Netherlands to build on the previous Council debate on this subject — a debate initiated by Canada in February of this year — and also to promote the transparency of the work of the Council. My delegation equally appreciates Secretary-General Kofi Annan's

comprehensive and action-oriented report on this issue and his inspiring statement yesterday morning. My appreciation goes also to Mrs. Mary Robinson for her valuable contribution yesterday and to Mr. de Mello in particular for his important role in the process of preparing this important report.

Across the planet, the plight of innocent civilians, in particular those of vulnerable groups, has been continuing with alarming frequency and intensity, as those in war zones have increasingly become the deliberate targets of warring parties. It is all the more frustrating to note this unfortunate trend when just last August we celebrated the fiftieth anniversary of the entry into force of the Geneva Conventions.

To deal with this daunting challenge with a sense of urgency, the Republic of Korea, during its presidency of the Security Council in the month of May 1997, took the initiative of organizing an open debate, the first of its kind, on the subject of protecting humanitarian assistance to refugees and others in conflict situations. My delegation is pleased to see that our initiative has been continuously followed up and further expanded by other like-minded member States. In this regard, my delegation welcomes wholeheartedly the Secretary-General's report contained in document S/1999/957 as a comprehensive blueprint for future action by the Security Council and other relevant organs, bodies and agencies of the United Nations to improve both the legal and the physical protection of civilians in armed conflict.

My delegation therefore supports the draft resolution before the Council, which endorses a number of practical recommendations contained in the Secretary-General's report. My delegation hopes that the adoption of this draft resolution will mark another step forward for the international community in its fight against the culture of impunity and to foster a climate of compliance.

Having said that, I would like to highlight the following points to which my delegation attaches particular importance.

My first point concerns the issue of how to strengthen the legal framework so as to better protect civilians in conflicts. We are encouraged by the recent developments aimed at enabling the international community to collectively combat the culture of impunity. In particular, we are encouraged by the adoption in Rome last year of the Statute of International Criminal Court. The Security Council has set examples by establishing the two ad hoc Tribunals for the former Yugoslavia and for Rwanda. In this context, we agree with the Secretary-General's view that there is a need to consider using enforcement measures to facilitate the arrest and surrender of those persons accused by the ad hoc Tribunals, and to devise judicial and investigative mechanisms, with national and international components, pending the establishment of the International Criminal Court.

In view of the urgency of better ensuring the safety of United Nations and humanitarian personnel, we join the Secretary-General's call for early ratification of the 1994 Convention on the Safety of United Nations and Associated Personnel. My delegation also favours the exploration of an appropriate mechanism to extend the scope of legal protection to cover all personnel. As suggested in the report before the Council, the development of a protocol to the 1994 Convention could be a useful idea.

Now I would like to turn to the issue of how to improve the physical protection of civilians in conflicts. My delegation believes that the Security Council should continue to take a proactive role in this field as the international community increasingly considers serious humanitarian problems to be a threat to international peace and security. The first issue I would like to raise in this regard is the need to strengthen the United Nations capability for conflict prevention and rapid response to crises. My delegation concurs with the Secretary-General's recommendation on the proactive use of a preventive monitoring presence in areas of potential conflict and on the deployment of preventive peacekeeping missions. We believe that the positive contribution made by the United Nations Preventive Deployment Force can be further built upon.

In view of the multifaceted nature of recent conflicts, there is an urgent need to strengthen the rapid-reaction capability of the United Nations to cover not only the traditional mandates of peacekeeping but also a number of other functions of peace-building, in particular protection of humanitarian assistance to of innocent civilians and of their human rights. In this context, we would like to join the appeal to all Member States to participate more actively in the United Nations Stand-by Arrangements System, with increased inclusion of specialized civil and humanitarian units. We also support the Secretary-General's recommendation to make use of relevant human rights information and analysis as indicators for potential preventive action by the United Nations.

Secondly, I would like to touch upon the issue of sanctions and arms embargoes. The Security Council has made consistent efforts to refine the use of sanctions. While we recognize the difficulty of achieving "smart sanctions" in the real world, we also believe that there is a continuing need to minimize collateral, unintended humanitarian suffering through the imposition of more specifically targeted sanctions and mechanisms for periodic substantive reviews.

Arms embargoes should be imposed in all situations where parties to the conflict target civilians. With cross-border arms flows in full swing, country-specific arms embargoes may not suffice to staunch the illicit flow of arms, and therefore the regional approach warrants serious examination. The Security Council should also devise a more reliable mechanism to better implement the arms embargoes which have already been imposed by the Council in some conflict areas but which have been deemed ineffective. This problem ought to be urgently addressed in the interest of both the credibility of Council action and the practical need to stop an activity responsible for prolonging civilian suffering.

Thirdly, in his report the Secretary-General encourages Member States to give political and financial support and assistance to other States to facilitate compliance with the Ottawa Convention on Landmines. Removing landmines has now become a global agenda item, requiring global action. In both conflict and post-conflict situations, mine clearance is an urgent precondition for securing the minimum safety of civilians. As a donor of the Mine Action Support Group, the Republic of Korea has, since 1996, actively participated in demining activities in Cambodia, Tajikistan and Ethiopia. We will continue to make such contributions in the future.

Fourthly, we would like to echo the primary importance of maintaining the civilian and humanitarian character of refugee camps. We have witnessed the ramifications of the failure to do so in some conflict situations, most notably in the Great Lakes region of Africa. We fully support a number of practical suggestions made by the Secretary-General, in particular the deployment of international military observers and the relocation of camps to a safe area away from war zones. My delegation also appreciates the ongoing efforts made by Mrs. Ogata and the Office of the United Nations High Commissioner for Refugees, to deal with this problem through the elaboration of three tiered options, namely, soft, intermediate and hard.

Last but not least, we share the view of the Secretary-General that it is important to establish an agreed mechanism and timetable for follow-up and review of the report. The primary responsibility of the Security Council resides in promoting the political settlement of regional conflicts in such a way as not to unjustly prolong civilian suffering. My delegation hopes that following the Council's adoption of the draft resolution today, the implementation of concrete recommendations will be tenaciously pursued, closely monitored and periodically reviewed in close collaboration with other United Nations organs and agencies and, of course, with the full support of the entire United Nations membership.

Let me conclude by reiterating my delegation's hope that the Security Council will continue to expand its involvement in the area of protection of civilians and all displaced persons in conflict situations in the months to come. For its part, the Republic of Korea will continue to be actively involved in and to make contributions to this process.

The President: The next speaker inscribed on my list is the representative of Ukraine. I invite him to take a seat at the Council table and to make his statement.

Mr. Yel'chenko (Ukraine): At the outset, I would like to join previous speakers in thanking the Secretary-General for submitting a very informative and substantive report on the protection of civilians in armed conflict and for making a statement on this extremely important subject.

We also appreciate your role, Mr. President, and the role of the delegation of Canada, in convening the current open debate. The growing number of open debates in the Security Council apparently demonstrates a positive tendency towards an increase in transparency in the work of the Council, which my country has always advocated.

Ukraine's position and views on the agenda item now before the Security Council again have been stated several times on recent occasions and have not undergone any changes of principle. Therefore, welcoming this new opportunity to address the multifaceted problem of the protection of civilians in armed conflict, I would rather limit myself to making a few remarks on the basis of the Secretary-General's report.

The importance of the problem under consideration is well-known. We fully share the concern of the Council, referred to in paragraph 1 of the Secretary-General's report in document S/1999/957, that

> "civilians continued to be targeted in instances of armed conflict, in flagrant violation of international humanitarian and human rights law".

It is truly regrettable that, despite quite a number of basic instruments in international humanitarian, human rights and refugee law which provide for the essential legal protection of civilians in armed conflict, the gross violations of their rights around the world have not yet ceased. The tragic facts alluded to in the Secretary-General's report on the situation of civilians in ongoing conflicts vividly demonstrate this.

In this regard, the Secretary-General's report has, in our view, rightly placed the accent on the growing perception within the international community of the urgent need to turn to the effective implementation of international humanitarian law. At the same time, I believe that promotion of the rule of law in all aspects related to the protection of civilians in armed conflict is the tenet which helps us to deliberate on today's subject in a more holistic manner. Moreover, this understanding becomes more topical in view of the fact that this year marks the centenary of the Hague Convention and the fiftieth anniversary of the Geneva Conventions. More than a year has passed since the Statute of the International Criminal Court was adopted at the Rome Conference.

In this context, Ukraine generally supports the measures recommended by the Secretary-General to strengthen legal protection for civilians in armed conflict, and stands ready to consider their implementation.

It is also worth mentioning that this year has been marked by yet one more truly important and remarkable event: the entry into force on 15 January of the Convention on the Safety of United Nations and Associated Personnel. We believe that this document started a new phase of conducting United Nations peacekeeping operations under conditions of increased protection for the personnel involved, both military and civilian. Furthermore, the Convention provides the Security Council and the General Assembly with an additional mechanism to encourage all Member States and the parties to a conflict, including non-State actors, to fully respect the status of United Nations and associated personnel, as well as the personnel of international humanitarian organizations.

Ukraine is proud to be among those 25 Member States which, last June at the second Summit on the Security and Independence of the International Civil Service, were presented with a memorable award in appreciation of their ratification of that Convention — a ratification that enabled its early entry into force.

The delegation of Ukraine considers that the recommendation of the Secretary-General, paragraph 43 of his report, to extend the scope of legal protection to all United Nations and associated personnel, including locally recruited staff, through the development of a protocol to the 1994 Convention, deserves further discussion. As the initiator of the very idea and a sponsor of the initial draft of the 1994 Convention, Ukraine looks forward to the possible deliberations on this idea at the current session of the General Assembly.

The delegation of Ukraine also took careful note of the Secretary-General's conclusion on the humanitarian impact of sanctions in general and on the targeted sanctions issue in particular. It seems to us that the Security Council should examine practical ways of how to avoid, or at least greatly minimize, a negative impact on the civilian population. In addition, we feel that further thinking must be done in the area of the impact of sanctions on third States.

For this purpose, the Security Council should, in our opinion, give careful consideration to the potential social, economic and humanitarian impact of sanctions on the population of the target State and those of third countries prior to the imposition of sanctions. Following the imposition of sanctions, the possible options should be envisaged so that appropriate adjustments can be promptly introduced to sanctions regimes in order to mitigate their adverse collateral effects.

Undoubtedly, there is no single remedy to resolve the problem of civilians in armed conflict. On the one hand, the roots of conflicts are deep and complex. On the other hand, there is a lack of effective mechanisms for the implementation of existing major instruments of international law.

At the same time, as has been stated by many speakers during this open debate as well as during previous ones on this topic, it is undeniable that the best way to prevent the suffering of the civilian population in armed conflict is to eliminate conflicts themselves or, rather, to prevent their emergence. In that sense, the role of the Security Council in this matter remains primary.

Recognizing the critical role played by many other United Nations and non-United Nations bodies and humanitarian agencies in protecting civilians in armed conflict and in providing them with humanitarian assistance and all necessary relief, we stand by our position that the Security Council should be the guiding and coordinating organ in these international efforts.

Therefore, we believe that the great number of concrete ideas emanating from the detailed analysis of the situations of ongoing conflict presented in the Secretary-General's report, as well as in many of the statements made yesterday and this morning, should receive an appropriate response by the Security Council.

My delegation is very satisfied that most of those ideas are duly reflected in the draft resolution that is before the Council today. In the same vein, we hope that the provisions of the draft to be adopted will not remain only on paper but will be fully respected and implemented, thus effectively contributing to resolving the problem of civilians in armed conflict.

In conclusion, I would like to assure the Council that Ukraine is committed to seeking ways to further enhance the protection of civilians in armed conflict and to fully support the Security Council's decisions to that end.

The President: The next speaker inscribed on my list is the representative of Egypt. I invite him to take a seat at the Council table and to make his statement.

Mr. Aboul Gheit (Egypt) (*spoke in Arabic*): I would like to thank you, Mr. President, for organizing this important meeting. Our thanks go as well to the Secretary-General for his timely report.

The issue discussed in the report is among the most important ones facing the international community. It is taking on increased significance because of the nature of the problems to which it gives rise, and therefore it should be given careful study.

Though we have been receiving reports on this issue from the Secretary-General for more than seven months, we are now being urged to discuss this question only a week after the publication of this latest report. This subject should have been dealt with in a timely manner, either by the Security Council itself or by all Members of the Organization or the international community.

We support the measures taken by the Security Council in the framework of the Charter and within the prerogatives of the Council under the Charter, and we approve its readiness to act in situations where civilians are targeted and where humanitarian assistance is wilfully prevented from reaching its intended recipients. We welcome the statements made by Council members, including the permanent members, on 21 January, 12 February and 22 February 1999 on that subject — that is, that the Council should act within its prerogatives and in accordance with the Charter, intervening only if there is a threat to international peace and security.

We also join the call to move away from double standards in the field of human rights, and we believe that the same attention should be devoted to those situations, wherever they may arise, that involve a loss of civilian life in armed conflict or which are a source of untold suffering, without allowing the political considerations of Council members, and especially of the permanent ones, to prevail over the collective considerations of the Council and of the United Nations as a whole.

The protection of human beings and their right to live in peace and security should always be the sacred objective of societies. This idea has evolved throughout the development of civilization to this very day and has been marked by the idea of the State as the protector of its citizens. Today we are witnessing unprecedented interest in the protection of the human individual, and we strongly support this new idea. However, and in just as balanced a manner, we believe that we should not focus only on one criterion that has been studied in depth. We believe that the right of society, within the framework of a State, to protect itself and its future should also be preserved.

Therefore, any international action to protect civilians should not involve only the entity responsible for the protection of citizens — the State, with all of its incumbent duties — but we sincerely believe that the international community must respond to any attempt to harm civilians in situations of armed conflict, be it during an international conflict or in an internal situation where a State may have lost control of its territory. We also support the idea that transgressors should be brought to justice under international legislation and the relevant machinery.

The report was submitted at the request of the Security Council, which asked that the Secretary-General

put forward specific proposals in order to enable the Security Council, within the scope of its responsibilities, enhance the physical and legal protection of civilians in armed conflict.

To this end, before I go into the thinking behind the report of the Secretary-General and his proposals, let me say that we believe that we first should deal with the question of the mandate and responsibilities of the Council, including the future of the Charter.

Article 24 of the Charter defines the role of the Council. It is responsible for the maintenance of international peace and security. In carrying out this task, it is duty-bound to respect the purposes and principles of the Charter. The mandate of the Council is to decide whether the continuation of a conflict might threaten international peace and security and to submit a report in this connection containing recommendations on ways to resolve the conflict pursuant to Chapter VI.

The Council may also act pursuant to the Charter within the framework of Chapter VII if it feels that peace is threatened or violated or if it believes that incidents constitute aggression pursuant to Article 39 of the Charter.

The legal framework for Council action is defined by respect for the purposes and principles of the Charter, that is, the non-use of force except in the implementation of Council resolutions adopted pursuant to Chapter VII. This means that a conflict must threaten or violate international peace or be deemed aggressive. The Council should not intervene in the internal affairs of States pursuant to paragraph 7 of Article 2 of the Charter.

The Council's role is thus to act in a practical manner to ensure peace, whereas the role of the General Assembly is legislative. The Assembly has its own purview: to consider all issues pertaining to peace and the general principles of cooperation to alleviate human suffering, including the protection of civilians in armed conflict. In brief, this distinction means that the Council is responsible for the maintenance of international peace and security in the strictest sense, whereas the Assembly is responsible for the follow-up assessment of international situations and the human right to live in peace and stability.

On this basis, we would hope that the Security Council is able to address this subject within the framework defined by the United Nations Charter, while respecting the delicate checks and balances between the various United Nations bodies, especially the General Assembly, as well as United Nations and other agencies, governmental and non-governmental, responsible for the protection of civilians.

I shall now address the logic behind the Secretary-General's report and recommendations. From the outset, the Secretary-General has quite rightly stressed the major problem involved in international law: the lack of machinery to ensure its implementation. Though this is a genuine problem, we must understand that it arises from the facts that international law is based on States' being on an equal footing and that the United Nations is not a supranational Organization. A careful consideration of the report will reveal that this situation both raises the Security Council above member States and places the prerogatives of the United Nations, its various bodies and other international organizations into the Council's hands. This anomaly needs to be closely analyzed, especially in the light of the current international situation.

We do not approve of the report's tendency to favour practical considerations over respect for law and the principles of the Charter. To be sure, compatibility must exist between the implementation of international humanitarian law and the provisions of the Charter. We cannot, however, forget the importance of consulting States and of reaching prior agreement with them, because we cannot conceive that the need to implement international humanitarian law or practical considerations for humanitarian protection could compel us to flout the Charter. That is inconceivable to us. If we seek to plug the gaps in the edifice constructed by the Charter, this should be done legally and through measures advocated by the Charter. A great deal can be accomplished thereby towards ensuring the protection of civilians in armed conflict.

A great deal of the report is devoted to humanitarian action. We find this preponderance reflected neither in law nor in the common endeavours of States embodied in the agreements and resolutions of international organizations. This is in fact one of the most controversial topics addressed here at the United Nations and beyond. Attempts to implement intervention through the actions of the Council do not bestow the legitimacy which the Council lacks. If, as we see it, the logic of the report is to give the Security Council a role beyond that currently mandated by the Charter, we cannot but question such logic. We shall therefore comment on certain ideas set forth in the report.

First, the report disregards the principle of obtaining the agreement of States to preventive measures that might violate their sovereignty or reduce or affect their political unity or territorial integrity. This flouts the sacrosanct Charter principle of the sovereignty of States.

Secondly, some recommendations made in the report would have the affect of allowing the Council, by taking legal measures, to act counter to instruments of international law and human rights, whereas States may choose other means of legal and political recourse. The recommendations may sometimes run counter to the provisions of accords by which the parties agree to settle their disputes.

Thirdly, we are cautious with regard to the request made of the Council in the report to play a monitoring role in the implementation of international agreements, whereby the Council would compel States to sign and ratify agreements, withdrawing their reservations, and States would advise the Council on steps which they may have taken in this regard. This role is well beyond the Council's prerogatives and competence.

There are many other points which we might raise in this framework. However, I would like to say in conclusion that it is a good, even desirable, idea for this item to be included on the agenda of the General Assembly and of the Economic and Social Council for further study and more detailed examination as an extension of this welcome initiative taken by the Security Council. The responsibilities and prerogatives of the Council are based on the Charter. Implementing the ambitious plan of the Secretary-General, as we would wish, requires coordination between the United Nations and organizations which provide humanitarian protection, something which is currently beyond the capacity of the United Nations or the Security Council.

The President: Before giving the floor to the next speaker, I would like to inform the Council that it will not be possible to wind up our meeting without breaking for lunch. It is, however, my intention to keep the lunch break to what I would like to describe as a civilized minimum and, accordingly, I intend to suspend our meeting from about 1.15 p.m. to 2:30 p.m.

The next speaker inscribed on my list is the representative of Slovakia. I invite him to take a seat at the Council table and to make his statement.

Mr. Tomka (Slovakia): I wish to express the appreciation of my delegation at the convening of this second open Security Council debate on the protection of civilians in armed conflict. The fact that the Council is about to adopt a draft resolution on this occasion attests to the importance of the topic. Slovakia has aligned itself with the statement of the representative of Finland delivered on behalf of the European Union. Nevertheless, allow me to make some additional comments.

Only three weeks ago, the Security Council held an open debate on children and armed conflict, an issue of equal importance and actually of the same nature. The delegation of Slovakia participated in that debate, underlining the necessity of a comprehensive approach to an issue which has humanitarian, as well as ethical, political, legal, military and socio-economic aspects.

We welcome the report of the Secretary-General (document S/1999/957) submitted to the Security Council in response to its presidential statement (document S/PRST/1999/6) of 12 February 1999. My delegation appreciates the comprehensive and integrated way in which the Secretariat has been dealing with the issue, as well as the 40 recommendations by the Secretary-General on how the Security Council could act to improve both the physical and the legal protection of civilians in situations of armed conflict. We are confident that these recommendations deserve the full attention of the Security Council in its further deliberations.

The plight of civilians in armed conflict is of great concern to the international community. While in the Second World War civilians accounted for 48 per cent of the casualties, today up to 90 per cent of conflict casualties around the world are civilians, and increasingly large numbers of these are children and women. Those figures are shocking, and we simply cannot ignore them.

As I pointed out in my statement on 25 August, the situation is much more complicated due to a profound shift in the pattern of today's conflicts. Many of them have taken the form of intra-State factional violence, civil strife and ethnic clashes, often marked by the collapse of State institutions and a breakdown of law and order. Most of today's conflicts are fought not only by regular armies but also by irregular armed groups, militias, foreign mercenaries, criminals and other disparate groups that have little knowledge of or respect for the rules of international law. The deliberate obstruction of humanitarian assistance to civilians and refugees by the combatants, using civilians as living shields and

employing organized violence against humanitarian and peacekeeping personnel is, in many cases, a major element of their military strategy. According to estimates, civilians are suffering from the effects of conflict and its aftermath in approximately 50 countries around the world. In recent years, United Nations staff and other humanitarian workers have lost their lives or have been abducted in 19 countries.

The Security Council has primary responsibility for the maintenance of international peace and security. Most important — and this is to be welcomed — it has recognized in its resolutions adopted in recent years that repression of the civilian population, ethnic cleansing, genocide, large-scale forced displacement and relocation of civilians and other flagrant violations of international humanitarian law constitute a threat to international peace and security.

A major problem has been the failure of States to bring to justice those who violate international humanitarian law and human rights. There are a number of relevant international treaties in this respect, such as the Fourth Geneva Convention and the two Protocols Additional, the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Safety of United Nations and Associated Personnel, just to mention a few. The setting up of ad hoc Tribunals for the former Yugoslavia and for Rwanda, and last year's decision to establish a permanent International Criminal Court have been other major steps in combating the culture of impunity.

However, the mere existence of these legal instruments without an effective enforcement mechanism does not automatically ensure their implementation. Furthermore, not all States have ratified or acceded to the Protocols Additional to the Geneva Conventions or to basic international human rights instruments and conventions concerning refugees. Only four States have ratified the Rome Statute of the International Criminal Court so far.

Slovakia is a party to all major instruments of international humanitarian law, human rights law and refugee law. We were among the first to ratify the Convention on the Safety of United Nations and Associated Personnel, and we signed the Rome Statute of the International Criminal Court last year; we are determined to complete the ratification process next year. We support the work of the working group of the Commission on Human Rights on a draft protocol to the Convention on the Rights of the Child, regarding the involvement of children in armed conflict, as well as the extension of the scope of the Convention on the Safety of United Nations and Associated Personnel to all categories of United Nations and associated personnel, including locally recruited staff.

In order to push forward a culture of compliance, the Security Council should urge Member States to ratify relevant international treaties, as well as to incorporate them into national law and, in particular, to ensure their full implementation. There should also be a concerted effort to coerce non-State actors into compliance with international law, mainly through the principle of individual criminal responsibility.

The Security Council should more actively concentrate on preventing conflicts at an early stage. An early warning system should be further enhanced, and preventive diplomacy should play a more active role in potential conflict situations. The violation of human rights has almost always been the prelude to a conflict which eventually brings about disastrous humanitarian consequences. We fully concur with the Secretary-General that the Security Council should make use of human rights information and analysis originating from experts and mechanisms of the Commission on Human Rights as an indicator for potential preventive action by the United Nations.

As recent experience has shown, the effort of combatants to push away the international presence, including humanitarian personnel, from the area of conflict is another ominous sign of impending humanitarian catastrophe. The reason is simple: to avoid or eliminate any potential witnesses of intended or committed atrocities or acts of genocide. Within the context of early warning, the Security Council should be able to react promptly and ensure a preventive monitoring presence in the area or, if necessary, to authorize the deployment of a preventive peacekeeping force.

Situations of total war have exposed the most vulnerable sectors of civilian populations, women and children, to horrendous violence. The disintegration of families and the breakdown of the social structure during times of armed conflict leave women and girls especially vulnerable to gender-based violence and sexual exploitation. Women also constitute the majority of refugees and internally displaced persons. Since contact between United Nations peacekeeping personnel and local populations during peacekeeping operations has been increasingly close and direct, it is important that participants in peacekeeping operations be given specific training prior to deployment that addresses local cultural

sensitivities, as well as gender-sensitivity issues. The Secretariat and Member States should be further encouraged to provide United Nations peacekeeping missions with more women personnel, including women military and civilian police officers, who could play a very useful role in tackling gender-sensitivity aspects of humanitarian emergencies.

The President: The next speaker inscribed on my list is the representative of Rwanda. I invite him to take a seat at the Council table and to make his statement.

Mr. Mutaboba (Rwanda): May I, first of all, join other speakers in congratulating you, Mr. President, for leading this Council through its fruitful deliberations. I would also like to extend my congratulations to your predecessor, the representative of Namibia.

Thank you for giving us the floor to address the Council for a second time this year on a topic of great importance to us. As much as we were worried about child soldiers or children in armed conflicts at the time of the last open debate, civilians as a whole should be given even greater attention in armed conflicts so as to minimize social, physical and psychological casualties.

Rwanda is yet another example of a place where innocent civilians were victims of armed conflict in different forms from the early 1960s until very recently. Civilians were targeted by politicians and their soldiers or militias on the basis of who they were and where they were born. They were used by Government forces and authorities as human shields during the liberation war as far back as 1990 and until 1994.

When our troops stopped the genocide in July 1994, the same evil forces crossed into the former Zaire and into Tanzania. Members will remember how heavily armed they were and remain. My delegation would like to remind the world that efforts to reconcile the interdependent but often quarrelsome imperatives of assistance and protection to refugees and displaced people offer a vivid example of the need to retain neutrality, apply principles, respect local views, and devise new policy formulas to deal with unprecedented challenges.

The classic contemporary example of this dilemma was observed in the Rwandan refugee camps in what was then eastern Zaire and is now the eastern part of the Democratic Republic of the Congo, where the Office of the United Nations High Commissioner for Refugees (UNHCR) faced the historic problem of separating combatants from bona fide refugees. The Security Council and the then Mobutu Government, which was host country to the Rwandan refugees and militias, denied the UNHCR that option. As a result, the key architects of the 1994 Rwandan genocide kept control of the bulk of the Rwandan refugees and were relied upon by humanitarian agencies for the distribution of humanitarian assistance to the civilians who were really in need. The ever-free militia resorted openly to intimidation and force to stop refugees willing to return home. They and former Rwandese Government forces possessed arms, and this marked the beginning of many cross-border attacks by militia members who were unlawfully enjoying refugee status and humanitarian assistance.

Civilians were threatened, attacked and killed for expressing the wish to return to Rwanda. The militia carried out summary executions and other acts of physical violence in broad daylight. Most of the administrative leaders of the former Rwandan genocidal regime had fled with their administrative apparatus to Zaire and Tanzania, where they could easily control the camps. Tanzanian authorities, with our many thanks, did their best to disarm those who were armed, but the authorities of the former Zaire and the humanitarian bodies — including, unfortunately, United Nations bodies — failed to do so, thus leaving innocent civilians to their own fate. This has to be avoided in the future.

However, the Rwandan Government at that time warned on many occasions that unless the broader international community was able to regain political and military control over the camps, it would be helping the Rwandan genocidal forces to come and finish the job they had started in 1994. In the following two years, United Nations agencies and international non-governmental organizations continued to feed and support the so-called refugee camps that were the military bases from which those who had perpetrated genocide pursued a murderous terrorist campaign, targeting survivors of the 1994 genocide and those in the local population who refused to collaborate with them. The attackers were armed and the victims were civilians.

Faced with no alternatives and noticing the lack of political will by the international community to dismantle the camps that had, against the Council's resolutions, become the biggest depots of sophisticated weapons supplied by some of those who had failed to stop the genocide and who chose to close one eye and watch with the other, the Rwandan people had once again been left to their own fate. However, this time such complicity and

idleness could not be tolerated and left to be nurtured. The Rwandan Government, its army and its people collectively refused to be victimized by another genocide and decided to do the job themselves. We rescued our people, civilians and soldiers alike, from the grip of the architects of the 1994 genocide, some of whom are still active in the Democratic Republic of the Congo. It is the Council's responsibility to deal with those criminals.

As a result, in late December 1996, it took less than one week for Rwanda to cease being depicted by the world community as a refugee-producing factory. Over 800,000 Rwandans had been successfully repatriated after the Rwandese Patriotic Army dismantled the Rwandan refugee camps. Had the same cameras and humanitarian assistance facilities followed the returnees home, the world would not feel ashamed of truly learning a lesson from the Rwanda experience. This lesson does not seem to have been learned by many, unfortunately, and we deplore that. Nevertheless, it is never too late.

The Rwandan experience has proven that with political will and commitment, the task of separating combatants from bona fide refugees can be done — even by the so-called weakest cockroaches on Earth. The major lesson to be learned is that this is even more feasible when serious screening to distinguish between those who really merit refugee status and those who do not is done early enough. We cannot allow innocent civilians to be left to themselves due to our lack of consistent policies and timid, unclear positions.

Before I conclude, my delegation wishes to strongly welcome the Secretary General's report and this Council's presidential statement of 12 February this year. We hope the world can be offered better chances of enjoying life through appropriate and timely decisions.

The refugee crisis in the Great Lakes region and the ongoing crisis in the Democratic Republic of the Congo stemmed from bad leadership, but also from lack of action to address the culture of impunity. I would like to remind the Council yet again of the existence in the Democratic Republic of the Congo of active, armed renegade forces, though the Lusaka ceasefire agreement urged their dismantling, disarming, repatriation and rehabilitation. Unless this Council takes appropriate action to disarm these genocidal forces, there is a risk that the fragile peace will be jeopardized by these unpunished forces, at the expense of civilians who it is our duty to protect. If this cycle of impunity is tackled by all of us, and if it is broken by addressing the real root causes of the rampant problems in the region, then we may see a better future for civilians and soldiers alike. But we have to work hard to make sure that no one and nothing holds us back.

The President: I thank the representative of Rwanda for the kind words he addressed to me.

The next speaker is the representative of India. I invite him to take a seat at the Council table and to make his statement.

Mr. Sharma (India): The report of the Secretary-General which forms the basis of our discussions today is so far-reaching in its implications that I think most of us would have welcomed the chance to study it in greater depth than we have been able to so far. Nevertheless, we thank you, Sir, for this opportunity to speak to the Council again on the protection of civilians in armed conflict.

I listened with great attention yesterday to the Secretary-General's eloquent presentation of his report and to the very moving statement made by the United Nations High Commissioner for Human Rights. We share completely their concern for the plight of civilians in armed conflict and admire their passionate advocacy. The problem is an extremely complex one. It is natural and understandable to be moved by emotion. Indeed, it is this that leads to a sense of deep concern and engagement. But the solutions we propose must be pragmatic and dispassionate; above all, measures to counter illegalities must themselves enjoy complete legality.

When I spoke to the Council in February, I spelled out some of the complexities involved, because some of the experts in the field who spoke to the Council before me had conveyed a general impression that this was both a relatively simple matter and a recent problem which could be addressed by vigorous action from the Council. Reading the first few sections of the Secretary-General's report, I note that it acknowledges the validity of several of the points that we and others had made.

However, the recommendations that the report goes on to make are far-reaching but require much deeper consideration. Though it frequently deplores the fact that legal instruments have been ignored by those who have accepted their provisions, the report seems to have followed suit. Like the bishop who recently confessed that he could not recall more than 5 of the 10 commandments at any one point of time, the report seems to be selective about the contents of the Charter,

nowhere more so than in the provisions that relate to the Security Council.

To refresh our memory, Article 24 sets out the functions and powers of the Security Council, and Article 24, paragraph 2, notes that the specific powers granted to it are laid down in Chapters VI to VIII and Chapter XII. In each chapter, the Council's powers are narrowly defined by the Charter. Where it is given a role in an area not within its specified competence, as in Chapter XII, the Charter specifies the limits of the Council's authority. For instance, Article 83, paragraph 3, spells out that the Security Council should work through the Trusteeship Council

> "to perform those functions of the United Nations under the trusteeship system relating to political, economic, social and educational matters in the strategic areas".

In other words, apart from the strategic and military aspects of security, the Council has no direct role in any of the other areas listed in Article 83, paragraph 3. This is a principle that applies generally to the Security Council's place in the United Nations system. This being the case, we find it odd that the bulk of the recommendations in this report invite the Security Council to take actions in areas not within its competence.

Recommendation 1 would have the Security Council urge Member States to ratify major instruments of international humanitarian law, human rights treaties and refugee law and, even further, to withdraw reservations they might have entered. First, this clubbing of three different sets of law creates a continuing confusion. The report has tended to forget the distinction between human rights and the provisions of humanitarian law, and the very different contexts in which they are applied. Secondly, if it is proposed that the Council do this, acting under Chapter VII, to make its decisions binding on Member States, that would make nonsense of the Vienna Convention on the Law of Treaties, which emphasizes the sovereign right of nations to decide which international instruments they will accept and to what extent they will be bound by them. If that is not the intention, then the Council's call is both meaningless and redundant.

Recommendation 2 attempts to draw the Council's attention to the non-state actors who, as we said in February, commit the most violations of humanitarian law, are party to no treaties and have no intention of abiding by international law. But this recommendation leaves unaddressed the further question we had posed: how does the Council propose to impose its will on non-state actors? Will representatives of the Council fly out to Angola, for instance, to distribute copies of this report, or of any decision the Security Council may take on it, to UNITA cadres, threatening a further debate here if they do not comply?

These fundamental objections apply equally to recommendations 3 to 6. In particular, recommendation 3 stretches the Security Council's competence under Chapter VII well beyond anything authorized by the Charter. The ad hoc tribunals, set up by the Council to uphold law, are themselves of dubious legitimacy, since the Charter does not give the Council this right or any role in the administration of justice. Nevertheless, these tribunals exist. However, if, for instance, a fugitive from one country were to take refuge in another, it could hardly be argued that, if the authorities declined to surrender the fugitive to an ad hoc tribunal, a threat to peace had taken place or that there had been a breach of peace, or that the authorities in the one country had carried out an act of aggression against the other. We are concerned, therefore, that the report is recommending that the Council use enforcement measures to induce compliance with the orders and requests of the tribunals.

On recommendation 7, the Guiding Principles on Internal Displacement have been presented to the Commission on Human Rights, but have no further intergovernmental approval. The first point, therefore, is that these principles do not as yet enjoy wide international acceptability, even though we may not cavil at them. This being so, simply as a matter of formal procedure, it is improper to encourage the Security Council to encourage States to follow these principles, particularly because internal displacements are problems that are the responsibility of the States concerned, and matters primarily within their sovereign jurisdiction.

On recommendation 8, there is no universal acceptance as yet that the minimum age of recruitment to the armed forces of States should be 18. Since, in any case, the maintenance of international peace and security does not depend on the age at which young men and women can be drafted into armed forces, there is no role for the Council here. Nor indeed does the Council have either the competence or the right to ask Member States to expedite their negotiations on an optional protocol to the Convention on the Rights of the Child. This is completely outside the Council's mandate, and a matter exclusively for the States parties to decide.

We can sympathize with the intent of recommendation 9 but, again, it has not been thought through. How, for instance, is anyone to determine whether combatants recruited by non-State actors are below the age of 18? Insurgents and terrorists have not been known in the past to insist on birth certificates being produced before they recruit to their ranks. If the language here implies that the Council would automatically act under Chapter VII, very careful thought needs to be given to the implications of this recommendation. The imposition of sanctions under Article 41 follows on the determination by the Council under Article 39 that there is a threat to the peace or breach of the peace, or that an act of aggression has taken place. It would be extremely difficult to argue that the use in armed conflict of children below the age of 18, however undesirable, and however unsavoury the non-State actors who employ them, can fall within the ambit of Article 39.

On recommendation 10, we make the same point as on earlier recommendations: it is not within the remit of the Council to ask Member States to ratify an international instrument. That is the function of the General Assembly.

On recommendation 11, apart from the general objection that it exceeds the scope of the Council's powers, there is a further consideration that it is not the Council's business to concern itself with the protection of all United Nations and associated personnel. That is a matter that comes squarely within the remit of the General Assembly; an invitation from the Security Council is redundant.

Recommendation 12 is completely vague. What is meant by "deployment in certain cases"? Can certain symptoms be identified for which preventive peacekeeping is the cure? If so, these should have been spelt out. We suspect there are none, and therefore the Council will continue to take decisions in an ad hoc manner on situations as they arise. Almost by definition, there can be no general prescription.

Recommendation 13 implies in part that the Council has been remiss in doing what it is expected to do under Chapter VI, and also makes a recommendation that has little content. What are the "appropriate procedures" that the Council is expected to recommend? Unless Member States, including in the Security Council, have a clear idea of what these should be, they can hardly make an informed decision on whether these would be appropriate.

On recommendation 14, Security Council working groups are unlikely either to improve the Council's understanding of issues or, more importantly, to prevent the outbreak of violence. For instance, even if such a working group had been in existence before the massacres took place in Rwanda, it would have made no material difference, as the international community did nothing not because it had not studied the problem in depth, but because the Security Council lacked the political will to act. Also, in several volatile situations, permanent members could have a direct interest or be implicated; by definition, a Council working group will get nowhere on them. The only issues on which a working group might be able to have a broad, academic and dispassionate debate would be those where the interests of permanent members were not engaged. The utility of having working groups is therefore very limited.

Recommendation 15 will damage the integrity of an extremely important component of the human rights machinery in the United Nations system. The treaty body experts and the mechanisms of the Commission on Human Rights are independent institutions; they are also supposed to be completely apolitical. The moment their recommendations start to be used by a body as politicized as the Security Council, the chances are that these mechanisms will fall into disrepute, Member States will be less willing to cooperate with them and, without adding an iota to the efficiency of the Council, the functioning of the human rights system will be severely impaired.

Recommendation 16 makes a perfectly valid point about the control or closing down of media assets that foment hate. However, it is completely silent on the vastly more powerful role that sections of the international media play in promoting tendentious points of view, or simply through a concentration on the dramatic, forcing precipitate, and sometimes ill-judged, international action. The demonization of target groups by sections of the international media is a case in point. A further point, since Council action is being urged, is what is meant by "appropriate measures"? Does this include, for instance, the use of military action?

Recommendation 18 would have the Council demand access, which is not automatic under international law. As we reminded the Council in February, there is no automatic right of access under the Geneva Conventions. Also, in August, the Subcommission on the Promotion and Protection of Human Rights adopted a resolution emphasizing that the so-called duty and right of humanitarian intervention is juridically totally unfounded under current international

law. The second half of this recommendation, again threatening the use of sanctions, violates Charter provisions for the same reasons as recommendation 9.

Recommendation 19 would mean that the right of humanitarian access — which itself, as I have just said, is not one sanctioned by international law — would extend not just to a particular State, but also to neighbouring States through which assistance would be delivered. Therefore, the sovereignty of a multiplicity of States would be automatically diluted to establish a right of humanitarian intervention which does not exist in international law. The even more extraordinary aspect of this recommendation is that the Security Council is asked to urge the States neighbouring a particular country to bring to the Council's notice, as a matter affecting peace and security, any issue that might threaten the right of civilians to assistance. This means that even if there is no threat to peace and security, such a threat could be manufactured in the complaint, or that the complaint in itself would be considered proof that such a threat exists. This would automatically sow dissension between neighbours, and undermine regional peace. As a matter of procedure, it would call into question the sovereign right of nation-States to make decisions on matters which they consider to be a threat to peace and security in their region, by laying down parameters which are arbitrary and ill-defined.

On sanctions, the subject of recommendations 22 to 25, our views have been stated before. We believe that sanctions are by definition a blunt instrument; whether they are used indiscriminately, or on particularly painful parts of the anatomy, the effect is largely the same. Nevertheless, we entirely support the need for the Council to be much more selective and cautious in the use of sanctions, for the Council to take a close look at the effects that sanctions have had on the civilian populations of the countries where these have been in effect for some time, and to have it put in place automatic mechanisms for relief to third countries affected by sanctions.

On recommendations 28 and 29, there should be an awareness by now that the Council mandates peacekeeping operations, but does not have the responsibility under the Charter to strengthen the Organization's capacity to do anything. That is squarely a matter for the General Assembly, and these requirements of the Secretariat should be put to the General Assembly through the Special Committee on Peacekeeping Operations.

Recommendations 31 and 32 need further consideration. It is true that there have been instances where certain national contingents have not behaved well as part of United Nations peacekeeping operations. However, it is another matter to make a general recommendation that an ombudsman or an ad hoc fact-finding mission should necessarily be put in place for all peacekeeping operations. Apart from anything else, when every peacekeeping operation is strapped for cash, it would be difficult, on financial grounds alone, to justify these extra institutions.

In recommendation 34, the Council is urged to confirm that regional organizations have the capacity to operate according to "international norms and standards". What are these norms and standards? And how would the Council set about confirming this, unless deficiencies are established in practice, or unless the Council does an elaborate vetting of an organization's capabilities, for which it has neither the expertise nor the mandate? Instead, what we would like to see affirmed is the principle that the role of regional organizations must strictly conform to Article 53 of the Charter.

Recommendation 35 is again far too sweeping. There is no indication here that the consent of a Member State is required before international military observers can be deployed. The alternative would be the implication that, wherever internally displaced persons or refugees are to be found, the Council would automatically act under Chapter VII and order the deployment of international military observers, even over the objections of a Member State. Since observers would need protection, an international military presence must necessarily be set up at the same time. The implications of this do not have to be spelt out.

The import of recommendation 36 is difficult to understand. How is it the Council's business to mobilize international support for national security forces? Apart from anything else, what, in practical terms, does the Secretariat wish the Council to do?

The same question arises from recommendation 37. The location or relocation of camps is primarily the business of the country concerned, and among international organizations, that of the High Commissioner for Refugees. How, in practical terms, is the Security Council to mobilize international support for the relocation of camps?

Before I end, I will draw attention to only two of several lacunae in the analysis of the problem in the report. The basic point has not been made that civilians

are at threat in armed conflict, and have been throughout this century, because of the concepts of total war introduced during the First and Second World Wars, and which continue to form part of the strategic doctrines of the most powerful military States. Unless that basic problem is addressed, civilians will continue to be at threat in armed conflict. We had also made the point in our earlier intervention, and I will simply recall it here without belabouring it, that, as long as the principal nuclear-weapon States continue to predicate their security on the use of nuclear weapons, even against non-nuclear threats, the safety of civilians cannot be secure.

I have spoken at length, but, apart from the recommendations, not on the other sections of the report. We have given our responses to each recommendation and not merely generalized comments, for the sake of clarity, believing this to be the more practical approach and not in a spirit of critique. We respect and share the sense of concern and the motivation to alleviate suffering and wrong which motivates the report. The subject of the report is indeed a very grave challenge before the world community. I have concentrated on the recommendations because these are the elements on which the Council is invited to act. These require much deeper thought and consideration, including in the General Assembly and other forums, and we would strongly urge the Council to regard them as a contribution to further reflection, rather than as a basis for action.

The President: There are a number of speakers remaining on my list. However, in accordance with my earlier announcement, I now intend, with the concurrence of the members of the Council, to suspend the meeting until 2.30 p.m.

The meeting was suspended at 1.25 p.m.